

1 Documents that have been traditionally kept secret, including grand jury transcripts and
2 warrant materials in a pre-indictment investigation, come within an exception to the general right
3 of public access. *See Kamakana*, 447 F.3d at 1178. Otherwise, "a strong presumption in favor of
4 access is the starting point." *Id.* (internal quotation marks and citation omitted). "The
5 presumption of access is 'based on the need for federal courts, although independent—indeed,
6 particularly because they are independent—to have a measure of accountability and for the
7 public to have confidence in the administration of justice.'" *Center for Auto Safety v. Chrysler*
8 *Group, LLC*, 809 F.3d 1092, 1096 (9th Cir. 2016), *cert. denied*, 137 S.Ct. 38 (Oct. 3, 2016)
9 (quoting *United States v. Amodeo (Amodeo II)*, 71 F.3d 1044, 1048 (2nd Cir. 1995); *Valley*
10 *Broad Co. v. U.S. Dist. Ct., D. Nev.*, 798 F.2d 1289, 1294 (9th Cir. 1986)).

11 There are two possible standards a party must address when it seeks to file a document
12 under seal: the compelling reasons standard or the good cause standard. *Center for Auto Safety*,
13 809 F.3d at 1096-97. Under the compelling reasons standard, "a court may seal records only
14 when it finds 'a compelling reason and articulate[s] the factual basis for its ruling, without
15 relying on hypothesis or conjecture.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1179). The court must
16 "'conscientiously balance[] the competing interests of the public and the party who seeks to keep
17 certain judicial records secret.'" *Id.* "What constitutes a 'compelling reason' is 'best left to the
18 sound discretion of the trial court.'" *Id.* (quoting *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 599
19 (1978)). "Examples include when a court record might be used to 'gratify private spite or
20 promote public scandal,' to circulate 'libelous' statements, or 'as sources of business information
21 that might harm a litigant's competitive standing.'" *Id.*

22 The good cause standard, on the other hand, is the exception to public access that has
23 been typically applied to "sealed materials attached to a discovery motion unrelated to the merits

1 of the case." *Id.* (citation omitted). "The 'good cause language comes from Rule 26(c)(1), which
2 governs the issuance of protective orders in the discovery process: The court may, for good
3 cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or
4 undue burden or expense.'" *Id.*

5 The Ninth Circuit has clarified that the key in determining which standard to apply is
6 whether the documents proposed for sealing accompany a motion that is "more than tangentially
7 related to the merits of a case." *Center for Auto Safety*, 809 F.3d at 1101. If that is the case, the
8 compelling reasons standard is applied. If not, the good cause standard is applied.

9 Here, Defendants seek to file exhibits under seal in connection with their motion for
10 summary judgment which is unquestionably "more than tangentially related to the merits of a
11 case." Therefore, the compelling reasons standard applies.

12 This court, and others within the Ninth Circuit, have recognized that the need to protect
13 medical privacy qualifies as a "compelling reason" for sealing records. *See, e.g., San Ramon*
14 *Regional Med. Ctr., Inc. v. Principal Life Ins. Co.*, 2011 WL89931, at *n.1 (N.D. Cal. Jan. 10,
15 2011); *Abbey v. Hawaii Employers Mut. Ins. Co.*, 2010 WL4715793, at * 1-2 (D. HI. Nov. 15,
16 2010); *G. v. Hawaii*, 2010 WL 267483, at *1-2 (D.HI. June 25, 2010); *Wilkins v. Ahern*, 2010
17 WL3755654 (N.D. Cal. Sept. 24, 2010); *Lombardi v. TriWest Healthcare Alliance Corp.*, 2009
18 WL 1212170, at * 1 (D.Ariz. May 4, 2009). This is because a person's medical records contain
19 sensitive and private information about their health. While a plaintiff puts certain aspects of his
20 medical condition at issue when he files an action alleging deliberate indifference to a serious
21 medical need under the Eighth Amendment, that does not mean that the entirety of his medical
22 records filed in connection with a motion (which frequently contain records that pertain to
23 unrelated medical information) need be unnecessarily broadcast to the public. In other words, the

1 plaintiff's interest in keeping his sensitive health information confidential outweighs the public's
2 need for direct access to the medical records.

3 Here, the referenced exhibit contains Plaintiff's sensitive health information, medical
4 history and treatment records. Balancing the need for the public's access to information regarding
5 Plaintiff's medical history, treatment, and condition against the need to maintain the
6 confidentiality of Plaintiff's medical records weighs in favor of sealing these exhibits. Therefore,
7 Defendants' motion (ECF No. 71) is **GRANTED**.

8 **IT IS SO ORDERED.**

9 Dated: November 25, 2020

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11 William G. Cobb
12 United States Magistrate Judge
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